

# DECISION



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

B-219438

**FILE:**

**DATE:** October 30, 1985

Quality Bag, Inc.

**MATTER OF:**

## DIGEST:

Where GAO recently has upheld specifications for plastic trash bags that preclude offers of high density polyethylene bags, protest on same basis is denied. Since the contracting agency has developed proposed specifications for such bags, GAO expects that the agency will act promptly to formalize the specifications.

Quality Bag, Inc. (Quality Bag), protests that the specifications in invitation for bids (IFB) No. 5FC0-DO-85-065, issued by the General Services Administration (GSA) to acquire a definite quantity of plastic trash bags, are unduly restrictive of competition.

The IFB, set aside for small businesses, includes 40 items of different sized bags for delivery to GSA distribution centers. There is a minimum thickness requirement for each bag based on the characteristics of typical low density polyethylene bags. Additionally, the IFB permits a 25-percent reduction in the thickness requirement for low linear density polyethylene bags which have greater strength characteristics than low density bags. Quality Bag is a small business producer of high density polyethylene bags that it alleges are stronger than low linear density bags. The protester principally complains that the IFB lacks an appropriate reduction in thickness for high density bags and imposes a narrow range of permissible density characteristics that effectively preclude offers of high density bags. The protester also complains that the IFB requires bags with gussets.

We deny the protest.

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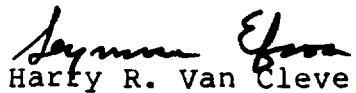
We considered the same basic issues in a decision responding to a protest Quality Bag filed under a similar solicitation issued by GSA in January 1985. Quality Bag, Inc., B-218547, July 1, 1985, 85-2 CPD ¶ 6. The solicitation (IFB No. 5FCO-13-85-020) was for a Federal Supply Schedule (FSS) contract covering government requirements for 177 items of trash bags. Then, as now, Quality Bag was supplying high density bags to several government purchasers under GSA's New Item Introductory Schedule (NIIS), a nonmandatory source of new products for which GSA does not determine specifications in relation to any particular need. Unlike the NIIS, the FSS solicitation and the current solicitation (involving certain needs in excess of the maximum order limitation under the requirements contract) contain specifications describing the government's minimum needs. These specifications, as indicated previously, contained thickness requirements based on the physical and performance characteristics of low density and low linear density bags, which GSA apparently developed based on laboratory testing. GSA maintained that it was still in the process of evaluating the thinner-film high density bags for comparability to the other bags. GSA argued that the need for such testing was demonstrated by test results regarding the protester's NIIS bags, which showed a relatively lower tear and puncture resistance than bags conforming to the specifications, and by deficiency reports submitted by a few users of the protester's NIIS bags. Under the circumstances, we found GSA's thickness requirements reasonable.

Quality Bag filed the current protest 2 days after our prior decision and approximately 6 months after the prior solicitation was issued. GSA contends that the same situation exists now as under our prior decision and therefore the prior decision should control. We agree since the record does not contain any evidence persuading us that GSA has obtained sufficient information to draft definitive specifications for high density bags. Since we find the IFB's specifications reasonable as to their thickness and density requirements, thus precluding offers of high density bags, we need not consider the propriety of the gusset requirement.

We note that GSA has developed a proposed specification for high density bags that it projects will be completed by January 1, 1986. Quality Bag has expressed approval for the proposed specification. We expect that GSA will take appropriate action to insure that its

projection for the use of formal specifications is met.  
See 41 U.S.C.A. § 253a (West Supp. 1985).

The protest is denied.

*for*   
Harry R. Van Cleve  
General Counsel